

1 BIRNBERG & ASSOCIATES
2 CORY A. BIRNBERG (SBN 105468)
3 703 Market Street Suite 600
San Francisco, California 94103
Telephone Number: (415) 398-1040
Facsimile Number: (415) 398-2001

5 Barbara Norris (Ak. No. 8506070)
LAW OFFICES OF BARBARA NORRIS
645 W. Third Ave.
6 Anchorage Alaska 99501
7 Telephone Number: (907) 279-6621
Facsimile Number: (907) 279-0199

8 Attorneys for Defendants
9 Woodbine Alaska Fish Company,
and Guy Ferrari Inc.

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA**

14 CITICAPITAL COMMERCIAL CORP,
15 Plaintiff,
16 v.
17
18 EGEGIK SPIRIT, official number 2999957,
19 her equipment, gear, furniture, apparel,
fixtures, tackle, boats, machinery, anchors
and all appurtenances, in rem;
20 NAKNEK SPIRIT, official number 585824,
her equipment, gear, furniture, apparel,
fixtures, tackle, boats, machinery, anchors
and all appurtenances, in rem;
21 WOODBINE ALASKA FISH CO.,
in personam; and GUY FERRARI, INC,
in personam.
22
23
24 Defendants,
25

**Case No. A-04-0147 CI
IN ADMIRALTY**

**MOTION FOR TELEPHONIC
APPEARANCE AND [proposed]
ORDER THEREON**

[L.R. 7.3]

Date: March 28, 2006
Time: 9:30 a.m.
Courtroom: 6

Honorable Magistrate John D. Roberts

BIRNBERG &
ASSOCIATES

703 MARKET STREET
SUITE 600
SAN FRANCISCO
CA, 94103
TEL (415) 398-1040
FAX (415) 398-2001

Now come Woodbine Alaska Fish Company for itself, and on behalf of its vessel, the *Egegik Spirit*, and Guy Ferrari, Inc., for itself and on behalf of its vessel the *Naknek Spirit*, and hereby move for an order permitting a telephonic appearance at the hearing on motion for summary judgment.

BACKGROUND

Cory A. Birnberg of Birnberg & Associates, located in San Francisco, California, presently has a mandatory settlement conference that morning, ending immediately before this hearing in the case of *Bashiri v. Radio Shark* at 455 Golden Gate Avenue, in San Francisco, California, and two court appearances the day prior and one the day afterward, all of which were on calendar from before this Court set up the present hearing. Mr. Birnberg therefore cannot fly to Alaska to appear for the hearing in person. Defendants respectfully request that they be permitted to appear telephonically.

Mr. Birnberg has been permitted to appear telephonically previously, and the law firm of Birnberg & Associates is primarily responsible for opposing the summary judgment motion presently before this Court.

ARGUMENT

Local Rule 7.3(a) states that “The court may allow one or more parties, counsel, witnesses or the court to participate telephonically in any hearing or deposition for good cause and in the absence of substantial prejudice to any party.”

Good cause exists to permit Mr. Birnberg to appear telephonically because Defendants will be severely prejudiced without being able to present oral argument in opposition to Plaintiff's motion for summary judgment.

1 On the other hand, no prejudice to Plaintiff will result from this accommodation.
 2 Plaintiff's substantive rights and ability to argue its motion are completely unaffected by
 3 this accommodation.

4 **CONCLUSION**

5 For the foregoing reasons, Defendants respectfully request that they be permitted to
 6 appear telephonically at the hearing on Plaintiff's motion for summary judgment on March
 7 28, 2006.

8 Dated: 21 March 2006

9 BIRNBERG & ASSOCIATES

10 By: /s/ Cory A. Birnberg
 11 Cory A. Birnberg
 12 Attorneys for Defendants
 13 BIRNBERG & ASSOCIATES
 14 703 Market Street Suite 600
 15 San Francisco, California 94103
 16 Telephone Number: (415) 398-1040
 17 Facsimile Number: (415) 398-2001
 18 Email: birnberg@birnberg.com
 19 California State Bar No. 105468
 20 Attorneys for Defendants

21 **ORDER**

22 Based upon the foregoing motion and good cause appearing therefore, IT IS SO
 23 ORDERED that Defendants may appear telephonically for the hearing on Plaintiff's motion
 24 for summary judgment set for March 28, 2006 at 9:30 a.m. in courtroom 6. In accordance
 25 with Local Rule 7.3(b)(2), Mr. Birnberg's office shall contact the Court's case management
 26 clerk for instructions on how to proceed.

27 Dated:

28 By _____
 29 Honorable Magistrate John D. Roberts

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CA, 94103
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